

**TOWN OF DARIEN  
BOARD OF SELECTMEN  
REGULAR MEETING  
TUESDAY, FEBRUARY 16, 2010**

**ATTENDANCE:** Acting 1<sup>st</sup> Selectman David Bayne; Jayme Stevenson;  
Gerald Nielsen, Jr.; Callie Sullivan

**STAFF:** Karl Kilduff, Administrative Officer

**OTHERS:** Joan Hendrickson, Town Treasurer; J. Wayne Fox, Atty

**CALL TO ORDER**

Acting 1st Selectman Bayne called the meeting to order at 7:45 p.m. He said that 1<sup>st</sup> Selectman Campbell would not be present at the meeting this evening.

**PUBLIC COMMENT**

There were no public comments.

**REPORT FROM LEONARD JACKSON  
REGARDING ALTERNATIVE FLOOD CONTROL PROJECTS**

Acting 1<sup>st</sup> Selectman Bayne said that Mr. Jackson was not able to attend the meeting this evening and that this topic would be discussed at the next Board of Selectmen meeting scheduled for March 1, 2010.

**\*\* MS. SULLIVAN MOVED TO AMEND THE AGENDA, MOVING NEW BUSINESS, ITEM E, PRIOR TO NEW BUSINESS, ITEM A.**

**\*\* MR. NIELSEN SECONDED.**

**\*\* MOTION PASSED UNANIMOUSLY.**

**NEW BUSINESS**

- a) Discuss and Take Action on Approval of Treasurer's Use of a Minority and Community Institution for Investment Purposes per the Town of Darien Investment Policy

Town Treasurer Joan Hendrickson distributed copies of the Town of Darien Investment Policy, and she explained that there had never been an Investment Policy before. She wrote one at the request of the auditors approximately 5 years ago. It is

in accordance with the GFOA. She said a clause referring to Minority Banks and Institutions is included in the policy. She mentioned that the Town Treasurer reports to no one, and there is no chain of command. She could technically invest money anywhere she chose to. She said that when she took office, she didn't feel that this was a useful or fruitful approach to doing business. She then set up the Investment Policy, some procedures, and a program that looks at the size of the bank, certificate of public depository, and ratio on the certificate of public depository.

She further explained that she was asking the Board of Selectmen, and the Board of Finance, for permission to go forward with the proposal to invest in the small bank, Connecticut Community Bank, d/b/a Darien Bank and Trust, that doesn't necessarily meet the Investment Policy criteria. She did not want this to appear as favoritism, and in an effort to be transparent, she wanted the Board of Selectmen to give her the go-ahead to potentially invest up to the FDIC-insured limit with the bank, but only if the rates are favorable and if she is in agreement with the direction the bank is headed. She said the risk of doing an FDIC-insured investment is in the timing of when the FDIC would get them their money back. She said rates are low at the current time, and she said they have chosen to take safety as a fiduciary over yield. She mentioned that they could get a potentially higher yield than with one of the 50 safest banks she could invest in. She said the bank has been in the community for some time, and has 6 different offices. As a testament to its shareholders, they invested their own money when the bank was required to raise more capital. On a negative note, they are the third bank in the area to be custodians for people who invested with Bernie Madoff. She provided a letter from the President of the bank for the Board of Selectmen.

Ms. Stevenson asked if we currently invest with other non-conforming banks. Ms. Hendrickson said they do, but the rates aren't necessarily higher, as each bank determines its own rates.

Mr. Nielsen stated that he liked the investment policy, the due diligence that had been done, and the potential to invest locally with an FDIC-insured bank. Acting 1<sup>st</sup> Selectman Bayne asked what Ms. Hendrickson thought the yield would be. She explained for him that she has projected 40 basis points for next year, and the rates for Fed funds now are between 0-25 now. Their rate is based on the Fed funds rate, and their investment rate is hovering between the Fed funds rate of 25, and 50 basis points. She felt the rate would go down before it goes up. She said the money they would invest is fund surplus money. She requested Town Council to inform her of how long that investment could go out. She said there is approximately \$12M in fund surplus money that is not needed to pay employees, teachers, or bills, so the timing of investing money in that small amount is a negligible risk.

Both Ms. Sullivan and Acting 1<sup>st</sup> Selectman Bayne expressed concern about the potential investment with Connecticut Community Banks. Ms. Hendrickson said she

can withdraw the money if she was concerned with any aspect of the investment. She said that a comparative analysis had not been done with the products/rates offered between banks. She mentioned that the worst case scenario would be if the FDIC came in and told them they had to wait for their money. She said she didn't think the bank was publicly traded.

The Board of Selectmen thanked Ms. Hendrickson for her presentation and on-going due diligence.

**\*\* MR. NIELSEN MOVED TO APPROVE THE TREASURER'S REQUEST TO MAKE AN FDIC-INSURED INVESTMENT IN EITHER A CD OR MONEY MARKET FUND INVESTMENT WITH CONNECTICUT COMMUNITY BANKS, D/B/A DARIEN BANK AND TRUST, AS PROVIDED FOR IN THE "MINORITY AND COMMUNITY FINANCIAL INSTITUTIONS" SECTION OF THE INVESTMENT POLICY, IN ACCORDANCE WITH THE TOWN OF DARIEN INVESTMENT POLICY.**

**\*\* MS. SULLIVAN SECONDED.**

**\*\* MOTION PASSED UNANIMOUSLY.**

b) Discuss and Take Action on Affordable Housing Tax Abatement Ordinance

Acting 1<sup>st</sup> Selectman Bayne said the proposed ordinance before them came from Town Council, and the proposal is to give the Board of Finance a definitive and final vote on the proposed ordinance. The Board of Selectmen discussed this briefly, and J. Wayne Fox provided some information regarding the ordinance extending to auxiliary apartments and deed restrictions. He explained that in theory, that could happen, but in reality, most likely it would not.

As 1<sup>st</sup> Selectman Campbell was not present this evening, the Board of Selectmen agreed to defer a vote on this until their next meeting, scheduled for March 1, 2010.

c) Discuss and Take Action on 2010-2011 Annual Budget Revisions

Mr. Kilduff provided copies of the 2010-2011 Annual Budget Revisions to the Board of Selectmen. This is a \$38.6M budget that reflects a growth of 1.2% over last year. Over two years, their funding level has stayed essentially flat. There is a \$17,000 difference between the 2010-11 budget, and the 2009-10 budget.

Acting 1<sup>st</sup> Selectman Bayne said there is a total of \$361,607 in budget cuts. He read the budget cuts from the provided copy of the Annual Budget Revisions.

**\*\* MS. SULLIVAN MOVED TO APPROVE THE 2010-2011 ANNUAL BUDGET REVISIONS.**

**\*\* MR. NIELSEN SECONDED.**

**\*\* MOTION PASSED UNANIMOUSLY.**

- d) Discuss and Take Action on a Resolution to Approve the 2010-2011 Annual Budget and Six-Year Capital Plan and Submitting the Same to the Board of Finance for Their Consideration.

Acting 1<sup>st</sup> Selectman Bayne said they had just received a copy of the plan budget and plan this afternoon.

Mr. Kilduff explained the information provided in the 2010-11 Capital Plan, saying that a request was originally made for \$3.2M, and it has now been reduced to \$2.38M at the Board of Selectmen level. The total general government component is proposed at \$460,000. The majority of this is a Board of Finance contingency for unanticipated capital projects. Mr. Kilduff went on to explain more information from the provided report.

More discussion took place regarding the 2010-2011 Annual Budget and Six-Year Capital Plan. Mr. Kilduff explained that the requirement of the Charter is to pass this on to the Board of Finance for their approval. He said the critical years are 2010-2011. The future years are subject to change, are placeholders, and are there for forecasting purposes.

Mr. Kilduff said that the forecast number for 2011/12 is \$19M; the forecast number for 2012/13 is \$3M; and the forecast number for 2013/14 is \$1.2M.

**\*\* MS. STEVENSON MOVED TO APPROVE THE FOLLOWING RESOLUTION,**

**WHEREAS, OVER THE COURSE OF JANUARY AND FEBRUARY, THE BOARD OF SELECTMEN HAVE REVIEWED AND EVALUATED THE PROPOSED BUDGET FOR FISCAL YEAR 2010-2011 AND THE SIX-YEAR CAPITAL PLAN; AND**

**WHEREAS, FOLLOWING COMPLETION OF THIS REVIEW A NUMBER OF CHANGES AND MODIFICATIONS TO THE BUDGET HAVE BEEN MADE.**

**NOW, THEREFORE, BE IT RESOLVED, THAT THE BOARD OF SELECTMEN OF THE TOWN OF DARIEN HEREBY APPROVE THE**

**MODIFIED ANNUAL BUDGET FOR 2010-2011 AND THE SIX-YEAR CAPITAL PLAN.**

**BE IT FURTHER RESOLVED THAT THE 2010-2011 BUDGET AND SIX-YEAR CAPITAL PLAN BE SUBMITTED TO THE BOARD OF FINANCE FOR THEIR CONSIDERATION IN COMPLIANCE WITH THE CHARTER OF THE TOWN OF DARIEN.**

**GENERAL FUND**

Town General Operating Fund	\$23,733,102
Library	\$ 3,131,479
Debt Service	\$ 9,389,907
Transfers Out to Other Funds	\$ 2,345,595
<b>TOTAL GENERAL FUND</b>	<b>\$38,600,083</b>

**OTHER FUNDS**

Reserve Fund (funded without borrowing)	\$2,383,310
Reserve Fund (funded through borrowing)	\$ 0
Sewer Fund	\$3,211,521
Animal Control Fund	\$ 75,685
Parking Fund	\$ 668,341

**\*\* MS. SULLIVAN SECONDED.**

**\*\* MOTION PASSED UNANIMOUSLY.**

- e) Discuss and Take Action on Scheduling a Special Meeting to Receive a Report from the Facility Study Task Force

Ms. Stevenson explained that this meeting is no longer necessary, and the report will be presented at the next meeting of the Board of Selectmen, scheduled for March 1, 2010.

f) Transfers

**Board of Selectmen**

**RESOLVED:**

That the following transfer of appropriations is approved for referral to the Board of Finance:

**From:**

<u>Acct. No</u>	<u>Account</u>	<u>Amount</u>
10704000-86600	Contingency	\$33,672
	<b>TOTAL</b>	<b>\$33,672</b>

**To:**

<u>Acct. No</u>	<u>Account</u>	<u>Amount</u>
10101011-81001	BOS – Full Time	\$33,672
	<b>TOTAL</b>	<b>\$33,672</b>

**\*\* MS. SULLIVAN MOVED TO APPROVE THE TRANSFER OF \$33,672 FROM THE CONTINGENCY ACCOUNT TO THE BOS FULL TIME ACCOUNT.**

**\*\* MR. NIELSEN SECONDED.**

**\*\* MOTION PASSED UANIMOUSLY.**

**Multiple Departments**

**RESOLVED:**

That the following transfer of appropriations is approved for referral to the Board of Finance:

**From:**

<u>Acct. No</u>	<u>Account</u>	<u>Amount</u>
10704000-86001	Contingency	\$108,103

24448834-86001	Sewer Contingency	\$ 3,186
	<b>TOTAL</b>	<b>\$111,289</b>

**To:**

<u>Acct. No</u>	<u>Account</u>	<u>Amount</u>
TDB	Multiple Dept - FT	\$111,289
	<b>TOTAL</b>	<b>\$111,289</b>

**\*\* MR. NIELSEN MOVED TO APPROVE THE TRANSFER OF \$111,289 FROM THE CONTINGENCY ACCOUNT AND THE SEWER CONTINGENCY ACCOUNT TO THE MULTIPLE DEPT – FT ACCOUNT.**

**\*\* MS. SULLIVAN SECONDED.**

**\*\* MOTION PASSED UANIMOUSLY.**

**FIRST SELECTMAN’S REPORT**

Acting 1<sup>st</sup> Selectman Bayne said that there was no report provided.

**ADMINISTRATIVE OFFICER’S REPORT**

Mr. Kilduff said the TGS&A Committee of the RTM is working on a potential ordinance change with the Town Attorney. This would deal with the statutory language provided in the Town Code relating to establishing fees. They are trying to remove specific fee dollar amounts in the code so that it is easier to amend them.

Mr. Kilduff said that since the beginning of the year, they have been conducting unauthorized use of parking lot train stations to verify parking permits. They have removed 1 individual from the Noroton Heights parking lot.

The CCM Legislative Committee met on February 9, 2010 and was attended by leadership from both House & Senate. The CCM is advising them to encourage municipal cooperation as they are anticipating large cuts in State aid. Governor Rell is anticipating a \$20M bond allocation for the STEAP Program, and he mentioned that Rep. Terri Wood said that the Governor’s budget does include that \$20M. He said it would be helpful if Rep. Wood could track that for them so they know if it will be provided or not.

**AGENDA REVIEW**

Ms. Stevenson said that she would like to have a discussion of the police station put on the agenda. She also mentioned that they should start scheduling the heads of the appointed commissions to come to their meetings.

Ms. Sullivan said that she would like the Board of Selectmen to have a joint meeting with P&Z.

### **APPROVAL OF MINUTES OF PREVIOUS MEETINGS**

Regular Meeting of January 25, 2010

**\*\* MR. NIELSEN MOVED TO APPROVE THE MINUTES OF THE JANUARY 25, 2010 REGULAR MEETING AS AMENDED.**

**\*\* MS. SULLIVAN SECONDED.**

The changes to the minutes of the January 25, 2010 regular meeting are as follows:

On page 2, second to last paragraph, last sentence, change “essential” to “essentially”.

On page 3, 1<sup>st</sup> paragraph, first full sentence, change “runt he” to “run the”.

On page 3, 2<sup>nd</sup> paragraph, 1<sup>st</sup> sentence, change “high” to “down”.

On page 3, 5<sup>th</sup> paragraph, change “reckoning of debt” to “reconciliation of debt”.

On page 4, the first three paragraphs should read as follows:

Sen. MacDonald said that all three of them, at different times, have proposed legislation that would modify 8-30G. There are many of their colleagues who are resisting to changes to the affordable housing appeals act. When it is talked about at a local level, he said most people would agree. When you look at the issue on a State level, there is a great disparity of opinion about how and when and under what circumstances the statute could be changed. He said one of the biggest challenges that he’s seen in the legislature is resistance within the House of Representatives to attaining any aspects of the Statute. He said he would be surprised if it got out of Committee. He said he thinks that people need to understand that modifying a statute to make it more workable in a community is very different from walking away from the policy. He said that all of the municipalities in the State need to understand that affordable housing is an important step to stabilizing housing, stabilizing neighborhoods, and to growing economies. He knows that the Town of Darien has had some difficult examples of that Statute being used as a sword, but that shouldn’t prevent the Town from embracing housing so that working men and women and their families can call Darien their home. He thinks that the whole notion of just getting to a moratorium is, in his opinion, a short-sighted view of what should be



accomplished. He feels that they should get to the moratorium so that the community can talk in a broader sense about how to embrace affordable housing so that it's not an issue at all. People that have tried to use local land use planning tools as a weapon will be muted, because the community will have achieved what benefits all of us.

Sen. Duff said in his first year in the Senate, he chaired the Housing Committee. He said they built more affordable housing with the \$100M housing trust fund than will ever be passed with 8-30G. He has said for many years that he is a proponent of making changes to 8-30G because he prefers to have a town be in control of building their affordable housing responsibly rather than being held hostage, to a certain extent, by various developers because the number is below 10%. There are a number of ways a community can embrace affordable housing. Norwalk has just under, or just over, 10%. Darien is clearly under 10%. He would be pleased to see Darien continue to move forward with some of the plans that are out there, and do it in a way that keeps the town in control of their own destiny of building affordable housing rather than doing it in a way that is constantly reactionary. He agreed with Sen. MacDonald and Rep. Wood regarding the fact that most of the opposition lies in the House. Sen. Duff said there is a group called Home Connecticut that is good. They passed legislation in one year, that normally would have taken three years. They talk directly to municipalities about how they can build affordable housing long-term for the entire Fairfield County region. Rep. Wood said they had received a \$50,000 grant from Home Connecticut two years ago.

Sen. MacDonald said municipalities could be better served if they start using zoning in creative ways to allow for bonus density. In Stamford, they've created systems where developers have to pay into a housing trust fund. That money is then used to leverage other dollars for building affordable housing. He said he would encourage affordable housing in whatever framework it comes in. He said he would caution against having efficiency apartments as small as 400 sq. ft. He encouraged towns to look at some of the other tools that are available for developing affordable housing. To meet the 10% threshold would have a staggering effect on the infrastructure, and there is no compensation for Darien.

Mr. Bayne said he was interested in Rep. Wood's proposed amendment about accessory apartments, and he asked if analysis had been done on this to get them closer to the 10% level. Rep. Wood quoted Wilder Glacen, who is well-versed in real estate in Darien, and said it was certain that there are more than enough units to bring to the 10% level. It was mentioned that in order to be counted as an accessory apartment, it has to be deed restricted for 40 years. Regarding the mandate to 8-30G, under the statute and under case law, courts have established certain criteria that can be legally considered by the Land Use Board in acting upon affordable housing cases.

1<sup>st</sup> Selectman Campbell spoke about the Allan O'Neill housing situation, saying that it dates back to WWII. The Darien Housing Authority has a proposal to build an additional 55 units to 107 units. The project has not received any financing and is basically dead in

the water. Stamford has two projects and Darien doesn't have any. He said they are being told to build it, but there is no money to build it. He said he didn't feel that Darien, or the vast majority of the towns in the State, would reach the 10% goal in the near future. He said he didn't think it was a reasonable goal. Darien is now at over 2%. Sen. Duff said he would look into the funding issue with CHFA. He urged the Board to continue their affordable housing work. Sen. MacDonald suggested that they meet with Mr. Tim Bannon, the President of CHFA. Ms. Sullivan said they had met with him already. It was decided that Ms. Schwartz of the Darien Housing Authority will contact Mr. Bannon to request making a presentation. The Selectmen will then decide how to proceed.

On page 5, a copy of the FY 2010-2011 Budget Presentation will be included with the minutes.

On page 7, last paragraph, last sentence, insert "next" prior to "meeting".

On page 8, under d), Discuss and Take Action on Draft Lease Amendment for Ledge Road Communications Tower, the 5<sup>th</sup> sentence should read: "The rent is \$350.00 per month."

On page 14, 5<sup>th</sup> paragraph, eliminate the 5<sup>th</sup> sentence, "Ms. Sullivan said that Ms. Stevenson is the liaison for the Commission on Aging".

**\*\* MOTION PASSED UNANIMOUSLY.**

Regular Meeting of February 1, 2010

The changes to the minutes of the Regular Meeting of February 1, 2010 will be provided separately.

### **FORTHCOMING MEETINGS**

February 23, 2010	Board of Finance Regular Meeting at 7:30 p.m.
February 23, 2010	Board of Education Regular Meeting at 7:30 p.m.
February 23, 2010	Planning & Zoning Commission Public Hearing at 8:00 p.m.
February 24, 2010	Parks & Recreation Commission Regular Meeting at 7:30 p.m.
March 1, 2010	Board of Selectmen Regular Meeting
March 2, 2010	Board of Finance Regular Meeting – Budget Presented at 7:30 p.m.

### **OTHER BUSINESS**

(Any items added to the agenda require a two-thirds vote)

### **ADJOURNMENT**

TOWN OF DARIEN  
BOARD OF SELECTMEN  
REGULAR MEETING  
FEBRUARY 16, 2010  
PAGE 10

**\*\* MS. SULLIVAN MOVED TO ADJOURN.**

**\*\* MR. NIELSEN SECONDED.**

**\*\* MOTION PASSED UNANIMOUSLY.**

The meeting adjourned at 9:50 p.m.

Respectfully submitted,

Carolyn Marr  
Telesco Secretarial Services